

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN ASSEMBLY JUNE 16, 2010

AMENDED IN SENATE APRIL 20, 2010

SENATE BILL

No. 1011

Introduced by Senator Calderon
(~~Coauthor: Assembly Member Portantino~~)

February 10, 2010

~~An act to amend Sections 25658 and 25662 of, and to add Section 25667 to, the Business and Professions Code, relating to alcoholic beverages. An act to amend Sections 66057 and 89708 of the Education Code, relating to public postsecondary education.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1011, as amended, Calderon. ~~Underage drinkers: immunity of prosecution. Student fees: special sessions.~~

(1) The Donahoe Higher Education Act sets forth, among other things, the missions and functions of California's public and independent segments of higher education, including the University of California and the California State University, and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

A provision of the act prohibits summer session fees at all campuses of the University of California and California State University from exceeding the fees charged per credit unit for any other academic term, if the state provides funding to offset any revenue losses that may occur for prescribed purposes.

This bill would instead prohibit those summer session fees from exceeding the fees charged per credit unit for any other academic term, except for courses taken solely for the purpose of career enhancement or job retraining and not taken for credit towards a bachelor's, master's, or doctoral degree.

(2) Existing law requires certain fees to be required of, and collected from, students enrolled in each special session, pursuant to rules and regulations prescribed by the Board of Trustees of the California State University. Special sessions are defined as self-supporting instructional programs conducted by the California State University, which include, but are not limited to, career enrichment and retraining programs.

This bill would revise the definition of special sessions by limiting them to career enrichment and job retraining programs that do not include courses offered for credit towards a bachelor's, master's, or doctoral degree.

~~The Alcoholic Beverage Control Act provides that any person under the age of 21 years who purchases any alcoholic beverage, who consumes any such beverage in any on-sale premises, or who possesses any such beverage on any street or highway or in any public place open to the public is guilty of a misdemeanor. Existing law also provides that any person under the age of 21 years who attempts to purchase any alcoholic beverage from a licensee, or the licensee's agent or employee, is guilty of an infraction.~~

~~This bill would grant immunity from criminal prosecution for any person under the age of 21 years who is subject to prosecution under the above-described provisions where the person under the age of 21 years called 911 and reported that another person was in need of medical assistance due to alcohol consumption and conformed to other specified requirements, as described.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66057 of the Education Code is amended
2 to read:

3 66057. (a) The Legislature finds and declares all of the
4 following:

5 (1) The future economic vitality of California will depend on
6 the state's ability to educate its citizens and to help them develop

1 the work and social skills needed to compete with workers of other
2 nations and states in our global economy.

3 (2) Ensuring that California's colleges and universities can
4 accommodate a tidal wave of new students, as well as enable those
5 from diverse backgrounds to achieve success in their college
6 careers, will require a variety of strategies.

7 (3) The Legislative Analyst's Office (LAO) has reported that
8 most campuses of the University of California, the California State
9 University, and the California Community Colleges will soon
10 exceed their current capacities.

11 (4) The LAO has identified year-round operation as a
12 cost-efficient strategy to address future enrollment growth, by
13 avoiding capital expenditure for instructional space, such as
14 classrooms, class laboratories, study space in libraries, and other
15 selected student support service facilities.

16 (5) Year-round operation also increases student access to high
17 demand campuses, and allows students to accelerate their progress
18 to degrees.

19 (6) (A) It is the intent of the Legislature that the University of
20 California and the California State University accommodate
21 enrollment growth by maximizing the utilization of existing
22 instructional facilities during the summer term before building
23 new classrooms and teaching laboratories. It is further the intent
24 of the Legislature that the University of California and the
25 California State University make requests for capital outlay funding
26 for space for classrooms and class laboratories justified using
27 legislatively approved utilization standards and a reasonable
28 assumption of summer-term enrollment.

29 (B) Accordingly, the University of California is requested to
30 base its annual five-year capital outlay plan on the utilization of
31 instructional facilities during the summer, assuming summer-term
32 enrollment of at least 40 percent of the average fall, winter, and
33 spring enrollment.

34 (C) The California State University is requested to base its
35 annual five-year capital outlay plan on utilization of instructional
36 facilities during the summer, assuming summer-term enrollment
37 of at least 25 percent and 40 percent of the fall, winter, spring
38 enrollment at rural and urban campuses, respectively.

39 (b) Summer session fees at all campuses of the University of
40 California and the California State University shall not exceed the

1 fees charged per credit unit for any other academic term, ~~if the~~
2 ~~state provides funding to offset any revenue losses that may occur~~
3 ~~due to the difference between the state university fee and fees~~
4 ~~charged for self-supporting academic programs except for courses~~
5 *taken solely for the purpose of career enhancement or job*
6 *retraining and not taken for credit towards a bachelor's, master's,*
7 *or doctoral degree.*

8 (c) In recognition of the differing circumstances on the various
9 campuses throughout the state, the University of California and
10 the California State University shall retain the flexibility to
11 implement year-round operation differently on individual
12 campuses.

13 (d) On or before January 10 of each year, the University of
14 California is requested to, and the California State University shall,
15 submit to the Legislature a report describing summer enrollment
16 for their respective systems. The report shall include all of the
17 following information separately for each campus in the system:

18 (1) The number of state-funded headcount students enrolled
19 during the summer term of the preceding calendar year and, for
20 comparison purposes, the year-average number of state-funded
21 headcount students enrolled during the preceding fall, winter, and
22 spring terms.

23 (2) The number of state-funded full-time equivalent students
24 enrolled during the summer term of the preceding calendar year
25 and, for comparison purposes, the number of year-average
26 state-funded full-time equivalent students enrolled during the
27 preceding fall, winter, and spring terms.

28 (3) Efforts undertaken to increase summer enrollment.

29 *SEC. 2. Section 89708 of the Education Code is amended to*
30 *read:*

31 89708. Tuition fees adequate, in the long run, to meet the cost
32 of maintaining special sessions in the California State University
33 shall be required of, and collected from, students enrolled in each
34 special session under and pursuant to rules and regulations
35 prescribed by the trustees.

36 "Special sessions," as used in this division, means self-supporting
37 instructional programs conducted by the California State
38 University. The special sessions shall ~~include, but not~~ be limited
39 to; career enrichment and *job* retraining programs *and shall not*
40 *include courses offered for credit towards a bachelor's, master's,*

1 *or doctoral degree.* It is the intent of the Legislature that those
2 programs, currently offered on a self-supporting basis by the
3 California State University during summer sessions, may be
4 provided throughout the year, and shall be known as special
5 sessions. The self-supporting special sessions shall not supplant
6 regular course offerings available on a non-self-supporting basis
7 during the regular academic year.

8 ~~SECTION 1. Section 25658 of the Business and Professions~~
9 ~~Code is amended to read:~~

10 ~~25658. (a) Except as otherwise provided in subdivision (c),~~
11 ~~every person who sells, furnishes, gives, or causes to be sold,~~
12 ~~furnished, or given away, any alcoholic beverage to any person~~
13 ~~under the age of 21 years is guilty of a misdemeanor.~~

14 ~~(b) Except as provided in Section 25667, any person under the~~
15 ~~age of 21 years who purchases any alcoholic beverage, or any~~
16 ~~person under the age of 21 years who consumes any alcoholic~~
17 ~~beverage in any on-sale premises, is guilty of a misdemeanor.~~

18 ~~(c) Any person who violates subdivision (a) by purchasing any~~
19 ~~alcoholic beverage for, or furnishing, giving, or giving away any~~
20 ~~alcoholic beverage to, a person under the age of 21 years, and the~~
21 ~~person under the age of 21 years thereafter consumes the alcohol~~
22 ~~and thereby proximately causes great bodily injury or death to~~
23 ~~himself, herself, or any other person, is guilty of a misdemeanor.~~

24 ~~(d) Any on-sale licensee who knowingly permits a person under~~
25 ~~the age of 21 years to consume any alcoholic beverage in the~~
26 ~~on-sale premises, whether or not the licensee has knowledge that~~
27 ~~the person is under the age of 21 years, is guilty of a misdemeanor.~~

28 ~~(e) (1) Except as otherwise provided in paragraph (2) or (3) or~~
29 ~~Section 25667, any person who violates this section shall be~~
30 ~~punished by a fine of two hundred fifty dollars (\$250), no part of~~
31 ~~which shall be suspended, or the person shall be required to~~
32 ~~perform not less than 24 hours or more than 32 hours of community~~
33 ~~service during hours when the person is not employed and is not~~
34 ~~attending school, or a combination of a fine and community service~~
35 ~~as determined by the court. A second or subsequent violation of~~
36 ~~subdivision (b), where prosecution of the previous violation was~~
37 ~~not barred pursuant to Section 25667, shall be punished by a fine~~
38 ~~of not more than five hundred dollars (\$500), or the person shall~~
39 ~~be required to perform not less than 36 hours or more than 48 hours~~
40 ~~of community service during hours when the person is not~~

1 employed and is not attending school, or a combination of a fine
2 and community service as determined by the court. It is the intent
3 of the Legislature that the community service requirements
4 prescribed in this section require service at an alcohol or drug
5 treatment program or facility or at a county coroner's office, if
6 available, in the area where the violation occurred or where the
7 person resides.

8 (2) Except as provided in paragraph (3), any person who violates
9 subdivision (a) by furnishing an alcoholic beverage, or causing an
10 alcoholic beverage to be furnished, to a minor shall be punished
11 by a fine of one thousand dollars (\$1,000), no part of which shall
12 be suspended, and the person shall be required to perform not less
13 than 24 hours of community service during hours when the person
14 is not employed and is not attending school.

15 (3) Any person who violates subdivision (c) shall be punished
16 by imprisonment in a county jail for a minimum term of six months
17 not to exceed one year, by a fine of one thousand dollars (\$1,000);
18 or by both imprisonment and fine.

19 (f) Persons under the age of 21 years may be used by peace
20 officers in the enforcement of this section to apprehend licensees;
21 or employees or agents of licensees, or other persons who sell or
22 furnish alcoholic beverages to minors. Notwithstanding subdivision
23 (b), any person under the age of 21 years who purchases or attempts
24 to purchase any alcoholic beverage while under the direction of a
25 peace officer is immune from prosecution for that purchase or
26 attempt to purchase an alcoholic beverage. Guidelines with respect
27 to the use of persons under the age of 21 years as decoys shall be
28 adopted and published by the department in accordance with the
29 rulemaking portion of the Administrative Procedure Act (Chapter
30 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
31 Title 2 of the Government Code). Law enforcement-initiated minor
32 decoy programs in operation prior to the effective date of regulatory
33 guidelines adopted by the department shall be authorized as long
34 as the minor decoy displays to the seller of alcoholic beverages
35 the appearance of a person under the age of 21 years. This
36 subdivision shall not be construed to prevent the department from
37 taking disciplinary action against a licensee who sells alcoholic
38 beverages to a minor decoy prior to the department's final adoption
39 of regulatory guidelines. After the completion of every minor
40 decoy program performed under this subdivision, the law

1 enforcement agency using the decoy shall notify licensees within
2 72 hours of the results of the program. When the use of a minor
3 decoy results in the issuance of a citation, the notification required
4 shall be given to licensees and the department within 72 hours of
5 the issuance of the citation. A law enforcement agency may comply
6 with this requirement by leaving a written notice at the licensed
7 premises addressed to the licensee, or by mailing a notice addressed
8 to the licensee.

9 (g) ~~The penalties imposed by this section do not preclude~~
10 ~~prosecution or the imposition of penalties under any other provision~~
11 ~~of law, including, but not limited to, Section 272 of the Penal Code~~
12 ~~and Section 13202.5 of the Vehicle Code.~~

13 SEC. 2. ~~Section 25662 of the Business and Professions Code~~
14 ~~is amended to read:~~

15 25662. (a) ~~Except as provided in Section 25667, any person~~
16 ~~under the age of 21 years who has any alcoholic beverage in his~~
17 ~~or her possession on any street or highway or in any public place~~
18 ~~or in any place open to the public is guilty of a misdemeanor and~~
19 ~~shall be punished by a fine of two hundred fifty dollars (\$250) or~~
20 ~~the person shall be required to perform not less than 24 hours or~~
21 ~~more than 32 hours of community service during hours when the~~
22 ~~person is not employed or is not attending school. A second or~~
23 ~~subsequent violation shall be punishable as a misdemeanor and~~
24 ~~the person shall be fined not more than five hundred dollars (\$500),~~
25 ~~or required to perform not less than 36 hours or more than 48 hours~~
26 ~~of community service during hours when the person is not~~
27 ~~employed or is not attending school, or a combination of fine and~~
28 ~~community service as the court deems just. It is the intent of the~~
29 ~~Legislature that the community service requirements prescribed~~
30 ~~in this section require service at an alcohol or drug treatment~~
31 ~~program or facility or at a county coroner's office, if available, in~~
32 ~~the area where the violation occurred or where the person resides.~~
33 ~~This section does not apply to possession by a person under the~~
34 ~~age of 21 years making a delivery of an alcoholic beverage in~~
35 ~~pursuance of the order of his or her parent, responsible adult~~
36 ~~relative, or any other adult designated by the parent or legal~~
37 ~~guardian, or in pursuance of his or her employment. That person~~
38 ~~shall have a complete defense if he or she was following, in a~~
39 ~~timely manner, the reasonable instructions of his or her parent,~~

1 legal guardian, responsible adult relative, or adult designee relating
2 to disposition of the alcoholic beverage.

3 ~~(b) Unless otherwise provided by law, where a peace officer~~
4 ~~has lawfully entered the premises, the peace officer may seize any~~
5 ~~alcoholic beverage in plain view that is in the possession of, or~~
6 ~~provided to, a person under the age of 21 years at social gatherings,~~
7 ~~when those gatherings are open to the public, 10 or more persons~~
8 ~~under the age of 21 years are participating, persons under the age~~
9 ~~of 21 years are consuming alcoholic beverages, and there is no~~
10 ~~supervision of the social gathering by a parent or guardian of one~~
11 ~~or more of the participants.~~

12 ~~Where a peace officer has seized alcoholic beverages pursuant~~
13 ~~to this subdivision, the officer may destroy any alcoholic beverage~~
14 ~~contained in an opened container and in the possession of, or~~
15 ~~provided to, a person under the age of 21 years, and, with respect~~
16 ~~to alcoholic beverages in unopened containers, the officer shall~~
17 ~~impound those beverages for a period not to exceed seven working~~
18 ~~days pending a request for the release of those beverages by a~~
19 ~~person 21 years of age or older who is the lawful owner or resident~~
20 ~~of the property upon which the alcoholic beverages were seized.~~
21 ~~If no one requests release of the seized alcoholic beverages within~~
22 ~~that period, those beverages may be destroyed.~~

23 ~~(c) The penalties imposed by this section do not preclude~~
24 ~~prosecution or the imposition of penalties under any other provision~~
25 ~~of law, including, but not limited to, Section 13202.5 of the Vehicle~~
26 ~~Code.~~

27 ~~SEC. 3. Section 25667 is added to the Business and Professions~~
28 ~~Code, to read:~~

29 ~~25667. Any person under the age of 21 years shall be immune~~
30 ~~from criminal prosecution under subdivision (a) of Section 25662~~
31 ~~and subdivision (b) of Section 25658, where the person establishes~~
32 ~~all of the following:~~

33 ~~(a) The underage person called 911 and reported that another~~
34 ~~person was in need of medical assistance due to alcohol~~
35 ~~consumption.~~

36 ~~(b) The underage person provided his or her name to the 911~~
37 ~~operator.~~

38 ~~(c) The underage person was the first person to make the 911~~
39 ~~report.~~

(e) ~~Nothing in this section shall affect liability for any offense that involves activities made dangerous by the consumption of alcohol, including, but not limited to, violations of Sections 23103, 23152, and 23153 of the Vehicle Code.~~

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